



## AgForce Queensland Industrial Union of Employers

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CHA Review

Department of Aboriginal and Torres Strait Islander Partnerships

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By Post & by Email: [CHA\\_Review@datsip.qld.gov.au](mailto:CHA_Review@datsip.qld.gov.au)

### TO WHOM IT MAY CONCERN

#### Re: Agforce Submission to Cultural Heritage Acts

AgForce Queensland Farmers (AgForce) is the peak rural group representing beef, sheep & wool and grain producers in Queensland. The broadacre beef, sheep and grains industries in Queensland generated around \$6.2 billion in gross farm-gate value of production in 2017-18. AgForce's purpose is to advance sustainable agribusiness and exists to facilitate the long-term growth, viability, competitiveness and profitability of these industries. The producers who support AgForce provide high-quality food and fibre to Australian and overseas consumers, manage around 40% of the Queensland agricultural landscape and contribute significantly to the social fabric of rural and remote communities.

AgForce would like to thank the Department of Aboriginal and Torres Strait Islander Partnerships for its early engagement on this review which is of great importance to our members. We have considered a number of the questions posed in the Review Consultation Paper and responded to them in an attachment to this letter. In addition, we would like to refer the Department to our previous submissions on the Duty of Care Guidelines.

[REDACTED]

We look forward to continuing discussions with the Department.

Yours sincerely

Michael Guerin  
Chief Executive Officer

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ADVANCING RURAL QUEENSLAND

## SPECIFIC FEEDBACK TO CONSULTATION PAPER

- **Are the Acts Operating as Intended?**

As was pointed out in our submission of September 2016 and again in our final submission to the Duty of Care Guidelines review in 2017, since the original Guidelines were finalised in 2004, we know of only two prosecutions. This is testament to our belief that the current Act and associated guidelines are operating satisfactorily and do not require significant amendment.

- **Should the Act be Updated to Reflect the Current Native Title Landscape?**

### *Identifying Aboriginal & Torres Strait Islander Parties*

With the vast majority of Queensland managed by our membership for agriculture, we have an enormous interest in ensuring a clear cultural heritage framework operates in Queensland. For this reason, we welcomed the amendments under the *Revenue and Other Legislation Amendment Act 2018* to reinstate the 'last claim standing' provision as previously operated under the Cultural Heritage Acts. Further, AgForce supported the validation of procedures commenced prior to the commencement of these amendments, given the work and progress that many parties have achieved already.

However, we are aware that the original decision and subsequent legislation following *Nuga Nuga* has left a range of groups asking for the identification of cultural heritage parties to be divorced from the native title process. AgForce has little practical experience in this issue as we operate primarily in the western areas of Queensland where there are fewer claims. Whilst we are not opposed to an alternative process, we seek further information on what this would be to enable informed comment.

### *Land User Obligations*

For agricultural producers who live remotely and whose daily activities include vegetation and infrastructure maintenance which are now likely to be defined as 'inconsistent' under the Guidelines, the additional costs and time delays associated with previously proposed amendments to the Guidelines are substantial. The combination of the onus on regulated assessment, mandatory consultation (funded by producers) and a right of veto by the Traditional Owners (TOs) would have made the proposed reform *unworkable*, resulting in no better outcomes for either the protection of cultural heritage or relationships and communication with TOs. Further, AgForce cautions against taking an even more prescriptive, costly and regulatory approach in the absence of additional educational, awareness and legislative reform.

With regards to comments about document-keeping and recording of self-assessment processes, while we do not see a need to bolster oversight of self-assessed and voluntary processes, AgForce supports producers documenting their decision-making process. As discussed in the Departmental consultation, producers already successfully do this under the *Vegetation Management Act 2004* self-assessable codes which are auditable by the Department of Natural Resources, Mines & Energy.

With regards to re-setting thresholds for formal cultural heritage assessments, it is clear from the Victorian experiences that mandating thresholds has resulted in an unnecessarily large volume of Cultural Heritage Management Plans (CHMPs), but it is arguable whether this led to improved protection of cultural heritage. Like cultural heritage itself, potential impacts are unique to the activity and so rely on bespoke, tailored consideration rather than a 'tick and flick' CHMP which does little other than involve copious and expensive non-indigenous experts and consultants for a questionable outcome.

As articulated previously, due to the lack of evidence about non-compliance with the Guidelines, AgForce sees no need to bolster compliance mechanisms further to protect cultural heritage. There are existing legal processes in place to stop work if non-compliance occurs.

*Recording Cultural Heritage*

It is inconceivable that the current DATSIP database does not contain a complete picture of cultural heritage within the state and whilst we understand the TOs' desire to not register sensitive information/sites, this makes assessment by people undertaking activities difficult if not impossible. Unless the government adequately invest in the recording of sites, the database will continue to provide a poor representation of areas and artefacts.

